

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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|-----------------------------|---|------------------|
| AIR FOODMART, INC., ET AL., |) | |
| |) | |
| Plaintiffs, |) | |
| |) | CIVIL ACTION NO. |
| VS. |) | |
| |) | 3:09-CV-1134-G |
| LEASE FINANCE GROUP, LLC, |) | |
| |) | ECF |
| Defendant. |) | |

MEMORANDUM OPINION AND ORDER

This court is required to examine the basis for its subject matter jurisdiction, on its own motion if necessary. *Torres v. Southern Peru Copper Corp.*, 113 F.3d 540, 542 (5th Cir. 1997). Diversity of citizenship is alleged as the basis for subject matter jurisdiction in this case. Notice of Removal ¶¶ 4, 6-9. The plaintiff Air Foodmart, Inc. is alleged to be a Georgia corporation. *Id.* ¶ 3. The plaintiff Rafiq Merchant is alleged to be “an individual who resides in Dallas County, Texas.” *Id.* The defendant Lease Finance Group, LLC is alleged to be “a Delaware limited liability company.” *Id.* ¶ 4.

Diversity of citizenship jurisdiction requires that the citizenship of each plaintiff must be different from the citizenship of each defendant. *Strawbridge v. Curtiss*, 7 U.S. 267 (1806). Generally, the citizenship of artificial entities other than


corporations is determined by the citizenship of their members. See *Carden v. Arkoma Associates*, 494 U.S. 185 (1990). This rule applies to limited liability companies such as the defendant. *E.g.*, *Wise v. Wachovia Securities, LLC*, 450 F.3d 265, 267 (7th Cir.), *cert. denied*, 549 U.S. 1047 (2006); *Johnson v. Columbia Properties Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006); *Pramco, LLC ex rel. CFSC Consortium, LLC v. San Juan Bay Marina, Inc.*, 435 F.3d 51, 54-55 (1st Cir. 2006).

Also, the allegation of residence for the plaintiff Rafiq Merchant is not sufficient as an allegation of his citizenship. *Strain v. Harrelson Rubber Co.*, 742 F.2d 888, 889 (5th Cir. 1984) (“an allegation of residency does not satisfy the allegation of citizenship”).

Within ten days of this date, the defendant shall file and serve an amended notice of removal alleging the *citizenship* of the plaintiff Rafiq Merchant and the names and citizenship of all its members/owners. Failure to timely file and serve such an amended notice of removal will result in remand to the 44th Judicial District Court of Dallas County, Texas, without further notice.

SO ORDERED.

June 19, 2009.



A. JOE FISH
Senior United States District Judge